

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

MYRA CHARLENE HORAN,

Plaintiff,

V.

Case No.: 1:22-cv-01121-JDB-jay

WAYNE FUQUA,

Defendant.

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL
AND
DIRECTING CLERK TO TERMINATE MOTIONS AND CLOSE CASE

Before the Court is the September 16, 2022, notice of voluntary dismissal by Plaintiff, Myra Charlene Horan. (Docket Entry (“D.E.”) 7.) Plaintiff filed a pro se complaint and application to proceed *in forma pauperis* in this action on June 7, 2022. (D.E. 1.) Pursuant to Administrative Order 2013-05, management of all pretrial matters was assigned to Magistrate Judge Jon A. York. On September 13, 2022, Judge York entered a Report and Recommendation pursuant to 28 U.S.C. § 636(e)(2)(B) and recommended that this case be dismissed and the application to proceed *in forma pauperis* be denied. (D.E. 6.) Per 28 U.S.C. §636 (b)(1), Horan had fourteen days from service of the Report and Recommendation to file any objections. Plaintiff has failed to file timely objections and instead has filed this notice of voluntary dismissal.

Under Federal Rule of Civil Procedure 41(a), if the defendant has not filed an answer or motion for summary judgment in response to the complaint, the plaintiff may dismiss the complaint, without prejudice and without seeking a Court order, by filing a notice of dismissal.

Fed. R. Civ. P. 41(a)(1). Indeed, “a notice of dismissal under Rule 41(a)(1) is self-effectuating” *Wellfount, Co. v. Hennis Care Ctr. Of Bolivar, Inc.*, 951 F.3d 769, 772 (6th Cir. 2020) (citing *D.C. Elecs., Inc. v. Nartron Corp.*, 511 F.2d 294, 298 (6th Cir. 1975). In the present case, Defendant has not responded to Plaintiff. Thus, the notice of voluntary dismissal is valid and self-effectuating. The Court therefore concludes that the complaint has been voluntarily dismissed without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice . . . states otherwise, the dismissal is without prejudice.”).

The Clerk is DIRECTED to terminate the motion at D.E. 2 and the Report and Recommendation at D.E. 6 and close the case.

IT IS SO ORDERED this 29th day of September 2022.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE